

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 66465
<hr/> Petitioner: BRIDGET AND IVAN LITTLEJOHN, v. Respondent: ELBERT COUNTY BOARD OF EQUALIZATION.	
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on March 28, 2016, Debra A. Baumbach and James R. Meurer presiding. Petitioners were represented by Bridget Littlejohn, *pro se*. Respondent was represented by Wade H. Gateley, Esq. Petitioners are protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**5693 Canyon Trail, Elizabeth, Colorado
Elbert County Parcel No. 84091-03-008**

The subject is a ranch style, single-family frame house located in the Pine Ridge Subdivision near the Town of Elizabeth, in the western portion of Elbert County. The house was constructed in 2000, and includes 2,328 square feet of above-grade living area. There are two bedrooms and two full baths, a 2,244 square foot unfinished walk-out basement, and a 828 square foot attached three-car garage. The roof is composition shingle. Gas and electric are publically provided, and the property is serviced by a well and septic system. Per county records, the lot is irregular in shape, contains 5.05 acres, a portion of which is located in a gully, and zoning is A-1 (Agricultural). The overall construction quality and condition of the property is reported to be average. No interior inspection of the property was completed by Respondent.

Petitioners are requesting an actual value of \$325,000 for the subject property for tax year 2015. Respondent provided an appraisal reflecting a value of \$403,919; however, is deferring to the Board of Equalization's (BOE) assigned value of \$369,204 for tax year 2015.

Petitioner's witness, Ms. Bridget Littlejohn, did not develop a market (sales comparison) approach for the subject property; however, did present an equalization argument based on the analysis of 15 comparable properties (eight of which were sold during the base period). One of these comparables (5688 Canyon Trail property) was directly across the street from the subject, six were located on the same street as the subject, and eight were located in the same area (Pine Ridge) as the subject. Ms. Littlejohn reviewed county records for each of these properties, and compared their individual sales prices to the actual values developed by Elbert County. Based on this analysis, Ms. Littlejohn concluded that a 12% increase from the subject's prior (2014) value of \$291,072, rather than the 35% increase concluded by Elbert County was most indicative of the market value for the subject. This 12% increase translated into a market value of \$325,000, rounded, for tax year 2015 for the subject.

Ms. Littlejohn further testified that, based on her research, the average increase in property values from the prior assessment in Elbert County was approximately 10%, which is significantly below the 35% increase applied to the subject since the last county valuation. In addition, Ms. Littlejohn indicated that the adjustments to the three sales used by Respondent in their market approach were developed by a third party, rather than by the appraiser for the county, and their accuracy within the market was suspect. Ms. Littlejohn further questioned whether Respondent considered the negative impact of the gully on the property in Respondent's conclusion of value.

Relative to the valuation provided by the county, Respondent's witness, Ms. Deborah J. Scoggin, an Ad Valorem Appraiser with the Elbert County Assessor's Office, developed a market approach and presented three comparable sales to support her opinion of value. All of the sales were located in the Pine Ridge Subdivision, and time adjusted sale prices ranged from \$320,297 to \$413,350, and from \$334,824 to \$414,598 subsequent to all other (total) adjustments. No actual sales prices for the three comparables were included in the report. The significant adjustments to the sales consisted of date of sale (time), age, baths, basement size and finish, site characteristics, garage, porch, balcony, and paving. Ms. Scoggin then calculated the median value of the three comparables subsequent to adjustment to conclude to her market value of \$403,919.

In addition to presenting her appraisal report, Ms. Scoggin testified that the impact of the gully was considered in her analysis, that her adjustments in the sales comparison approach were supported by the market, and that the sales presented by Petitioners, with the exception of Sale No. 1, weren't considered primarily due to their age and design.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

Colorado law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). Petitioners' opinion of value was based on an equalization methodology using the values assigned by the Assessor to other properties and the argument that the subject was not valued fairly compared to these properties. The Board can only consider an equalization argument as support for the value determined using the market approach. *Arapahoe*

County Bd. of Equalization v. Podoll, 935 P.2d 14, 16 (Colo. 1997). For equalization argument to be effective, Petitioner must also present evidence or testimony that the assigned value of the comparable used was correctly valued using the market approach. As that evidence and testimony was not presented, the Board could only give minimal consideration to the equalization argument presented by Petitioners.

In addition, the Board did consider eight of the 15 sales in Petitioners' analysis that occurred during the base period. However, Petitioners provided limited information regarding the sales for the Board to give measurable consideration in refuting Respondent's assigned value.

The Board understands where Petitioners might be confused by Respondent's appraisal report, as well as Respondent's concluded value, and the support for that value. The Board also recognizes the deficiencies found within Respondent's appraisal report, including lack of an actual sales price for each of the sales, the lack of support for the individual adjustments, and ultimately concluding to a value that is simply the median value of the three adjusted sales. However, the Board finds that Petitioners' analysis was not persuasive and insufficient to support Petitioners' assertions of error as to Respondent's valuation.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent. Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 13th day of April, 2016.



BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Lishchuk

Milla Lishchuk

James R. Meurer

James R. Meurer